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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140828724-4992-02]

RIN 0648-BE23

Framework Action to Modify the Commercial Annual Catch Limit/Annual Catch Target

Regulations for Three Individual Fishing Quota Species Complexes

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Reef Fish FMP) as prepared by the Gulf of Mexico Fishery Management Council (Council). The action modifies the commercial annual catch limit (ACL) and annual catch target (ACT) regulations for three individual fishing quota (IFQ) program species complexes in the Gulf. This rule clarifies that the established commercial quotas are equal to the commercial ACTs and adds commercial ACLs to the regulations for three IFQ species complexes: Other shallow-water grouper (Other SWG), deep-water grouper (DWG), and tilefishes. The purpose of this rule is to optimize allowable harvest of IFQ species in the Gulf, while preventing overfishing, in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of the framework action, which includes a regulatory impact review and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, telephone: 727-824-5305.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the fisheries for Gulf Reef Fish Resources, which includes the complexes for Other SWG, DWG, and tilefishes, under the Reef Fish FMP. Other SWG includes black grouper, scamp, yellowmouth grouper, yellowfin grouper; DWG includes warsaw grouper, snowy grouper, speckled hind, yellowedge grouper; and tilefishes include golden tilefish, blueline tilefish, and goldface tilefish. The Reef Fish FMP is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. All weights specified in this rule are in gutted weight.

On October 1, 2014, NMFS published a proposed rule for this framework action and requested public comment (79 FR 59204). The proposed rule and framework action outline the rationale for the actions contained in this final rule. This final rule clarifies that the commercial quotas for the Other SWG, DWG, and tilefishes complexes are equal to the commercial ACTs specified in the Generic Annual Catch Limit/Accountability Measures Amendment (Generic ACL Amendment) and adds commercial ACLs to the regulations for these same three complexes. This final rule also removes outdated quotas for these species complexes.

Comments and Responses

NMFS received one comment letter on the proposed rule from a commercial fishing organization. The comment and NMFS' response is summarized below.

Comment: The commercial quotas should be set equivalent to the ACL, not the ACT, because they are managed under a highly functioning and certain IFQ program. The present commercial IFQ program for SWG, DWG, and tilefish demonstrates that management uncertainty is effectively zero and therefore setting the commercial quota for these species complexes at their ACLs rather than their ACTs is justified.

Response: NMFS disagrees that the commercial quotas for IFQ species complexes should be set equal to the ACLs and not the ACTs. At the June Council meeting, the Council voted to use the ACL/ACT control rule adopted in the Generic ACL Amendment and retain the 4 percent buffer between the ACL and ACT for species in the IFQ program. Using the ACL/ACT control rule results in a recommended 4 percent buffer because of the uncertainty in managing stock complexes. While the aggregate quota is unlikely to be exceeded in an IFQ program, there is less control over the individual stocks within the aggregate. The Other SWG complex and DWG complex each consist of four stocks, and the tilefish complex consists of three stocks. If the proportion of each stock that makes up the landings changes, it may be possible to overfish a single stock within the complex even when the aggregate quota is not exceeded.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the conservation and management of Gulf reef fish and is consistent with the framework action, the FMP, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order

12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. NMFS received one comment on the proposed rule concerning the decision to keep the commercial quota at the commercial ACT level, which does not affect the current level of landings. Therefore, the basis for the certification that this final rule would not have any impact on small entities has not changed. Accordingly, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico, Individual Fishing Quota.

Dated: November 25, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.39, paragraphs (a)(1)(ii) and (a)(1)(iii)(A) are revised to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(ii) Deep-water groupers (DWG) have a combined quota, as specified in paragraphs (a)(1)(ii)(A) through (C) of this section. These quotas are specified in gutted weight, that is eviscerated, but otherwise whole.

(A) For fishing year 2014--1.110 million lb (0.503 million kg).

(B) For fishing year 2015--1.101 million lb (0.499 million kg).

(C) For fishing year 2016 and subsequent fishing years--1.024 million lb (0.464 million kg).

(iii) * * *

(A) Other SWG combined. (1) For fishing year 2014--523,000 lb (237,229 kg).

(2) For fishing year 2015 and subsequent fishing years--525,000 lb (238,136 kg).

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3. In § 622.41, paragraphs (c)(1), (f)(1), and (g)(1) are revised to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

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(c) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial Other SWG. The commercial ACT for Other SWG is equal to the applicable quota specified in § 622.39(a)(1)(iii)(A). The commercial ACL for Other SWG, in gutted weight, is 545,000 lb (247,208 kg) for 2014, and 547,000 lb (248,115 kg) for 2015 and subsequent fishing years.

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(f) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial DWG. The commercial ACT for DWG is equal to the applicable quota specified in § 622.39(a)(1)(ii). The commercial ACL for DWG, in gutted weight, is 1.160 million lb (0.526 million kg) for 2014, 1.150 million lb (0.522 million kg) for 2015, and 1.070 million lb (0.485 million kg) for 2016 and subsequent fishing years.

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(g) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial tilefishes. The commercial ACT for tilefishes is equal to the quota specified in § 622.39(a)(1)(iv). The commercial ACL for

tilefishes, in gutted weight, is 606,000 lb (274,877 kg).

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